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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,096	06/08/2006	Kimio Tada	062626	1488
38834 7590 01/07/2010 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER HUJAZ, OMAR F				
ART UNIT 3633		PAPER NUMBER		
NOTIFICATION DATE 01/07/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary

Application No.

10/582,096

Applicant(s)

TADA, KIMIO

Examiner

OMAR HIJAZ

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/225)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 1, 2009 has been entered.

This communication is a Non-Final rejection Office Action on the merits. Claims 1 and 2 have been amended, claim 3 has been previously cancelled, and claim 4 has been previously withdrawn. Therefore claims 1, 2, and 4 are now pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent No. 1,450,404) in view of Holland (U.S. Patent No. 3,007,283).

As per claim 1, Anderson teaches a pre-cast concrete block (concrete stair block; title) for constructing a staircase (figure 1), comprising: a horizontal stepping surface (4); a rise surface (2) perpendicular to the stepping surface (as illustrated, the rise surface is perpendicular to the stepping surface; figure 1); and a rear surface (surface which is

abutting support member 6; figure 1) which connects diagonally the stepping surface and the rise surface at respective edges thereof (as illustrated, the rear/bottom surface connects the riser surface and the stepping surface diagonally; figure 1), the rear surface having a recess (as illustrated, the rear surface has an opening in the bottom; figure 2) for reducing the weight of the block (it is understood that this would reduce the weight of the block), the recess having round parts with a specified radius at inner corner parts of the recess (as illustrated, the recess is rounded off at the corners; figure 2), and a pair of side surfaces (as illustrated, the stair block has side surfaces on either side; figures 1 and 2), wherein the round parts form a partially cylindrical recessed surface (as illustrated, the round parts in the recess are partially cylindrical; figure 2) and wherein said pre-cast concrete block is formed in a triangle pillar (It is important to note that the determination of patentability of a product claim is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP Section 2113).

Anderson fails to disclose the side surfaces each having displacement prevention grooves formed therein.

Holland discloses a precast concrete stair construction (title) whereby the side surfaces each having grooves (40) formed therein (figure 3 and col. 3, lines 20-40).

Therefore from the teaching of Holland, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the stair block of Anderson to include grooves in the sides as taught by Holland in order to further create a means for stabilizing the stair block.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent No. 1,450,404) in view of Holland (U.S. Patent No. 3,007,283) and further in view of Buffaloe (U.S. Patent No. 1,985,143).

As per claim 2, the Anderson and Holland combination fails to disclose a second recess for reducing the weight of the block, said second recess being formed in the rise surface.

Buffaloe discloses a precast concrete step (title) whereby the step includes a recessed surface 9 in the step (figure 4).

Therefore from the teaching of Buffaloe, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify rise surface of the stair block of the Anderson and Holland combination to include a recessed surface as taught by Buffaloe in order to further reduce the weight of the stair (col. 2, lines 10-20).

Response to Arguments

4. Applicant's arguments and amendments have been considered but are moot in view of the new ground(s) of rejection. New references Anderson (U.S. Patent No. 1,450,404) and Holland (U.S. Patent No. 3,007,283) have been added to overcome the newly added limitations. Applicant argues that the prior cited art, does not disclose or suggest the embodiments as claimed. In particular applicant argues that the claim language as amended "a pair of side surfaces, each having displacement prevention grooves formed therein" is not disclosed by prior secondary reference Bott since the reference did not have comparable grooves in both sides who's purpose was to prevent displacement when they are filled with mortar. However, new secondary reference

Holland discloses a precast stair with grooves on both sides of the stair block sidewalls, which prevent displacement when filled with mortar. In addition, applicant argues that the recess of secondary reference Buffaloe is formed in the bottom of the stair and not in the rise surface. However, it is important to note that a rise surface is already taught by Anderson, and examiner is only relying on Buffaloe to show that the forming large grooves in a precast concrete structure is well known, and it would have been obvious to place the groove of Buffaloe in the riser surface of Anderson. In addition, applicant argues that Buffaloe does not suggest the recess reduces the weight of the block. However this is denoted in the Buffaloe reference at col. 2, lines 13-18 in the recitation "recessed or depressed portion... 9, Fig. 4, which gives a strong and comparatively light construction.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Brian E. Glessner/
Primary Examiner, Art Unit 3633